COURT NO.2

IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

Writ Petition No. 173 (S/S) of 2006

(Old Case No. 4386 of 1991

Ram Preet Gupta, aged about 28 years, son of Shri Sri Ram Gupta, working as Basic Health Worker, Primary Health Centre Sahaspur, District Dehradun.

(Since Deceased)

1/1 Usha Gupta W/o Late Ram Preet Gupta
1/2 Rajesh Gupta S/o Late Ram Preet Gupta
1/3 Rahul Gupta S/o Late Ram Preet Gupta
1/4 Km. Anita Gupta D/o Late Ram Preet Gupta

.....Petitioners

Versus

1. State of U.P. through its Secretary, Medical Health & Family Welfare, U.P., Janpat, Lucknow.
2. Joint Director (Malaria), Jawahar Bhawan, Medical Health & Family Welfare Department, Lucknow.
3. Chief Medical Officer, Dehradun
4. Medical Officer,Primary Health Centre, Sahaspur, Distt. Dehradun.

..... Respondents

Sri Deep Chand Joshi, learned counsel for the petitioner.
Learned Standing Counsel for the respondents.

Dated: 26.11.2007

Hon'ble P.C. Verma, J.

The petitioner (deceased) was appointed on the post of attendant on the direction of Chief Medical Officer vide his letter dated 05.08.1988 as is evident from Annexure-4 of the writ petition. A perusal of Annexure-4 reveals that the appointment of the petitioner was made in violation of Article 16 of the Constitution of India by entertaining the application of the petitioner signally without advertising the post to give the equal opportunity in employment to others similarly situated.

2. On the direction of the Joint Director, Malaria, U.P., Lucknow, the Chief Medical Officer, Dehradun has terminated the services of the petitioner on the ground that the services of the petitioner were no longer required. As such, termination order could be passed under the U.P. Temporary Government Servant (Termination of Services) Rules, 1975 and such directions have been held to be valid by the Hon'ble Supreme Court in the case of **State of Uttar Pradesh and another** v. **Kaushal Kishore Shukla** reported in (1991) 1 SCC 691.

3. In view of the law laid down by the Apex Court in the aforesaid judgment, I am of the view that the impugned order does not suffer from any illegality or requires any interference otherwise.

4. The petition is devoid of merit and is accordingly dismissed. No order as to costs.

(P.C. Verma, J.)

26.11.2007
RBS